

REMARKS

Claims 1-7 are pending in the application. Claims 1-7 have been rejected in the Examiner's initial office action.

Claims 1-3 stand rejected pursuant to 35 USC §102(b) as being anticipated by Froeschke, US 4,623,307.

Claims 4-5 stand rejected pursuant to 35 USC §103(a) as being unpatentably obvious over Froeschke in view of Lambert, US 3,748,998.

Claims 6-7 stand rejected pursuant to 35 USC §103(a) as being unpatentably obvious over Froeschke in view of Wark, US 6,588,598.

35 USC §102(b) Rejection of Claims 1-3

Independent claim 1 is directed to a diffuser for a distribution system for use in a pastillation machine. The elements of claim 1 are illustrated in FIG. 3 and described in the specification at paragraph 43. Detail of the diffuser is shown in FIG. 9. The diffuser 90 of claim 1 includes an elongate body 92 sized to fit within a bore 68 of a distribution bar 62 which is in turn a part of a distribution system 60. The diffuser also includes a centering device (represented by pairs of tabs 94 in FIG. 9) coupled to the elongate body for engaging at least one surface of the bore of the distribution bar. The centering device maintains the elongate body generally spaced from at least one wall of the bore of the distribution bar of the distribution system.

The Examiner contends that Froeschke includes a nozzle bar 25 which reads on the claimed invention's diffuser. The nozzle bar is straight and disposed parallel to an axis of rotation and is thus argued to be comparable to Applicant's claimed elongated body. The nozzle bar is fitted into a groove (column 3, line 23; FIG. 2b, element 28) in the body 40A, 40B of the inner container 3A, 3B. The Examiner argues that the groove is anticipatory of Applicant's centering device and the inner container reads on Applicant's bore.

Applicant believes that the Examiner's analysis of the cited reference is flawed and thus respectfully disagrees with the Examiner's rejection. The Examiner is attempting to draw equivalence between the diffuser 90 of Applicant's distribution system 60 and the entire distribution system disclosed in Froeschke. The Examiner has

alleged that the nozzle bar of Froeschke is equivalent to the Applicant's diffuser bar 90. The nozzle bar of Froeschke is a complete one-piece distribution system. Thus, the Froeschke nozzle bar is prone to clustering and agglomeration of the flowable substances. In contrast, the diffuser of the present invention is one element of a distribution bar within a larger distribution system. Applicant's diffuser bar ensures even distribution of the flowable substance within the distribution bar.

Applicant's invention can be structurally distinguished from Froeschke as well. Claim 1 clearly states that the diffuser comprises an elongate body sized to fit into a bore of the distribution bar. Applicants assert there is no equivalent structure in Froeschke for either the distribution bar or bore. Granted both the diffuser and nozzle bar are elongate, but the nozzle bar of Froeschke most certainly does not fit into a bore, especially with respect to a distribution bar.

The Examiner has suggested that the inner container of Froeschke is equivalent to the bore, but this appears to be incorrect. The inner container 3A (FIG. 2), 3B (FIG. 3) includes a substantially solid body 40 in the vicinity of the nozzle and, thus, has no analog to Applicant's bore. The body 40 of the inner container 3A does define a groove 28 in which the nozzle bar sits, but the groove is argued to be the analog of the centering device not the bore. There is no analog for Applicant's distribution bar.

As discussed above, the Examiner has equated the Froeschke groove 28 with the centering device. Claim 1 of the presently claimed invention clearly recites that the centering device is coupled to the elongate body (i.e. the diffuser), not the distribution bar or other structure in which the diffuser is positioned. The groove of Froeschke is certainly not coupled to the elongate body (i.e. the nozzle bar of Froeschke), but is a structural feature of the inner container.

In view of the foregoing, Applicant respectfully submits that claims 1-3 are novel in view of Froeschke, US 4,623,307. Reconsideration of the pending rejection of claims 1-3 pursuant to 35 USC §102(b) is respectfully requested.

35 USC §103(a) Rejection of Claims 4-7

Claims 4-7 depend from claim 1. Neither Lambert, US 3,748,998 nor Wark, US 6,588,598 teach the critical elements of claim 1, namely an elongate body sized to fit

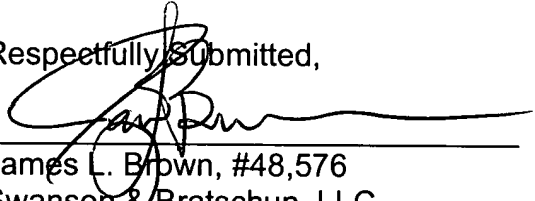
within a bore, including a centering device coupled to the elongate body for engaging at least one surface of the bore. As discussed above, Froeschke, US 4,623,307 also does not teach these critical elements.

In view of the foregoing, Applicant respectfully submits that claims 4-7 are not obvious over Froeschke in view of Lambert or Wark. Reconsideration of the Examiner's pending 35 USC §103(a) rejection is respectfully requested.

For the reasons set forth above, Applicant respectfully submits the claims as filed are allowable over the art of record and reconsideration and issuance of a notice of allowance are respectfully requested. If it would be helpful to obtain favorable consideration of this case, the Examiner is encouraged to call and discuss this case with the undersigned.

This constitutes any needed request for time. The undersigned hereby authorizes the charge of any deficiency of fees submitted herewith, or the credit of any overpayment, to deposit account number 19-5117.

Respectfully Submitted,



James L. Brown, #48,576
Swanson & Bratschun, LLC
1745 Shea Center Drive, Suite 330
Highlands Ranch, Colorado 80129
303.268.0066
303.268.0065 (FAX)

cc: Sim & McBurney

S:\CLIENT FOLDERS\SIM\SIM 07\D1\SIM07D1OARESP01.DOC